

REMARKS

Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks. Claims 1-18 were pending. Claims 19-23 have been added in this Reply. Therefore, claims 1-23 are pending. Claims 1, 2, 3, 4, and 5 are independent.

ALLOWABLE SUBJECT MATTER

Applicant appreciates that the Examiner has indicated claims 8, 15, and 16 define allowable subject matter.

§ 102 REJECTION – NAKAGAWA

Claims 1-5 and 9 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Nakazawa, et al. (USP 6,331,903). *See Office Action, items 1-7.* Applicant respectfully traverses.

For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. *See M.P.E.P. 2131; M.P.E.P. 706.02.* Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, Nakazawa fails to teach or suggest each and every claimed element. In the Reply filed on July 30, 2004, Applicant amply demonstrated that Nakazawa cannot be relied upon to disclose the feature of

“wherein the steps of obtaining the image data, replaying the image data, receiving the output instruction, generating the order information, displaying on the display medium all image data output, and certifying the order are carried out in the digital camera” as featured in independent claims.

In response, the Examiner indicated that he considers the negative film scanner 10 as being equivalent to the digital camera as claimed since it includes a CCD 13 that captures images. *See Office Action, page 2, Response to Arguments.* This is clearly improper since the Examiner is giving an unreasonably broad interpretation of what constitutes a digital camera.

MPEP requires a reasonable broad interpretation. *See MPEP 2111.* This interpretation must be consistent with the interpretation that those skilled in the art would reach. Claims must be given their plain meaning unless otherwise defined in the specification. *See MPEP 2111.01, section I.* In this instance, it is clear that the digital camera as described is consistent with the ordinary meaning and is distinct from the scanner of Nakazawa. *See also, MPEP 2111.01, section II.*

Since the digital camera as claimed is distinct from the scanner of Nakazawa, independent claims 1-5 are distinguishable over Nakazawa. In any event, dependent claims 19-23 have been added to make the distinction absolutely clear to define the digital camera as having a capability to take an image of a real object. These dependent claims also recite that the display of

the digital camera is capable of displaying the image of the real object when the image is taken and during order processing.

Claim 9 depends from independent claim 5. Therefore, for at least the reasons stated with respect to independent claim 5 as well as on its own merit, claim 9 is distinguishable over Nakazawa.

Applicant respectfully requests that the rejection of claims 1-5 and 9 based on Nakazawa, be withdrawn.

§ 103 REJECTION – NAKAZAWA, ALLEN

Claims 6 and 7 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nakazawa in view of Allen, et al. (USP 5,737,491). *See Office Action, items 8-10.* Applicant respectfully traverses.

It has been shown above that independent claim 5 is distinguishable over Nakazawa. Allen has not been, and indeed cannot be, relied upon to correct for at least the above noted deficiencies of Nakazawa. Therefore, claim 5 is also distinguishable over the combination of Nakazawa and Allen.

Claims 6 and 7 depend from independent claim 5. Therefore, for at least the reasons stated with respect to independent claim 5, claims 6 and 7 are also distinguishable over the combination of Nakazawa and Allen.

For at least the above stated reasons, claims 6 and 7 are distinguishable over the combination of Nakazawa and Allen. Applicant respectfully requests

that the rejection of claims 6 and 7 based on Nakazawa and Allen, be withdrawn.

§ 103 REJECTION – NAKAZAWA, WALKER

Claims 10-12 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nakazawa in view of Walker, et al. (USP 6,381,582). See *Office Action, items 11-14*. Applicant respectfully traverses.

It has been shown above that independent claim 5 is distinguishable over Nakazawa. Walker has not been, and indeed cannot be, relied upon to correct for at least the above noted deficiencies of Nakazawa. Therefore, claim 5 is also distinguishable over the combination of Nakazawa and Walker. Claims 10-12 depend from independent claim 5. Therefore, for at least the reasons stated with respect to independent claim 5 as well as on their own merit, claims 10-12 are distinguishable over the combination of Nakazawa and Walker.

Applicant respectfully requests that the rejection of claims 10-12 based on Nakazawa and Walker, be withdrawn.

§ 103 REJECTION – NAKAZAWA, SLOTZNICK

Claims 13 and 14 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nakazawa in view of Slotznick (USP 5,983,200). See *Office Action, items 15-17*. Applicant respectfully traverses.

It has been shown above that independent claim 5 is distinguishable over Nakazawa. Slotznick has not been, and indeed cannot be, relied upon to correct for at least the above noted deficiencies of Nakazawa. Therefore, claim 5 is also distinguishable over the combination of Nakazawa and Slotznick.

Claims 13 and 14 depend from independent claim 5. Therefore, for at least the reasons stated with respect to independent claim 5 as well as on their own merit, claims 13 and 14 are distinguishable over the combination of Nakazawa and Slotznick.

Applicant respectfully requests that the rejection of claims 13 and 14 based on Nakazawa and Slotznick, be withdrawn.

§ 103 REJECTION – NAKAZAWA, PARULSKI, WATANABE

Claims 17 and 18 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nakazawa in view of Parulski, et al. (USP 5,440,343), and in further view of Watanabe (USP 6,529,236). *See Office Action, items 18-20.* Applicant respectfully traverses.

It has been shown above that independent claim 5 is distinguishable over Nakazawa. Neither Parulski nor Watanabe has not been, and indeed cannot be, relied upon to correct for at least the above noted deficiencies of Nakazawa. Therefore, claim 5 is also distinguishable over the combination of Nakazawa, Parulski, and Watanabe.

Claims 17 and 18 depend from independent claim 5. Therefore, for at least the reasons stated with respect to independent claim 5 as well as on their own merit, claims 17 and 18 are distinguishable over the combination of Nakazawa, Parulski, and Watanabe.

Applicant respectfully requests that the rejection of claims 17 and 18 based on Nakazawa, Parulski, and Watanabe, be withdrawn.

NEW CLAIMS

Claims 19-23 have been added. The new claims are distinguishable over the cited references, individually or in any combination. Applicant respectfully requests that the new claims be allowed.

CONCLUSION

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Hyung Sohn (Reg. No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit

Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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Attachment(s):